

IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 12 OF 2006

IN

WRIT PETITION NO. 513 OF 2004

ASHOK YESHU SANKWALKAR, CHICALIM
GOA.

... Petitioner

Versus

MORMUGAO PLANNING AND DEVELOPMENT
AUTHORITY AND ANR.,

... Respondents

Petitioner in person.

Mr. A. N. S. Nadkarni, and Mr. S. Padiyar, Advocate for the respondent
No.1.

Mr. P. S. Rao, Advocate for the respondent no.2.

Coram:- S.A.BOBDE, J.

Date:- 22nd March, 2007

P.C.

Ashok Sankwalkar, whose application is converted into this contempt petition, makes a grievance that one Acchelal Z. Yadav has not complied with the statement he made to this Court on 14.9.2005 to the effect that he would remove the alleged unauthorised construction. According to Ashok Sankwalkar, this amounts to contempt of Court.

2. Mr. Nadkarni, the learned Counsel for the Mormugao Planning and Development Authority appears upon notice and refers to the affidavit of one R.K. Pandita. Paras 5 and 6 of the affidavit read as follows :

" 5. I say that after the reconstitution of the Planning Authority, the matter was discussed in the 11th meeting of

the Mormugao Planning and Development Authority held on 19/04/06 and due to reconstitution of Mormugao Planning and Development Authority in place of erstwhile Vasco Planning and Development Authority, it was decided by the Authority to serve a fresh notice under Section 52 of the Town & Country Planning Act on Shri Acchelal Yadav, Respondent No.2. Accordingly a demolition notice dated 28/04/06 came to be served. I say that vide application dated 2.5.06 the Respondent No.1 applied for regularization submitting plans along with necessary documents. The proposal was placed and discussed in the authority meeting held on 10/5/06 and the authority decided to direct the Respondent No.1 to first demolish the existing verandah within the setback towards (eastern boundary) and to close the opening towards the western and eastern boundary. Accordingly the Respondent No.1 was informed of the decision of the Authority by communication dated 16/5/06.

6. In compliance with the directives the Respondent No.1 demolished the verandah within the setback and also closed the openings as directed and submitted photographs as proof. Site inspection on behalf of the authority confirmed the position of the demolition of the verandah and closing of the windows and doors (openings). It was also verified that as per the ODP in the force the property was now coming in settlement zone."

According to Mr. Nadkarni, the aforesaid action amounts to removal of the unauthorised construction which was subject-matter of Writ Petition No.513/04 and, therefore, there was no breach of the order.

3. Ashok Sankwalkar states that it does not amount to compliance of the order, since the entire construction was unauthorised and Acchelal Yadav has removed only a portion of it. If Ashok Sankwalkar has any grievance about the entire construction, he may resort to such remedy as may be available to him in law. The order of this Court does not accept Yadav's statement to the effect that the entire construction is illegal and would be removed.

4. In the circumstances, notice for contempt is, hereby discharged. Petition is dismissed.

S.A.BOBDE, J.

ssm.